

ASSEMBLY BILL

No. 2536

Introduced by Assembly Member Butler

February 24, 2012

An act to add Section 1816.5 to the Civil Code, and to amend Sections 31108 and 31752 of the Food and Agricultural Code, relating to stray animals.

LEGISLATIVE COUNSEL'S DIGEST

AB 2536, as introduced, Butler. Stray animals: ownership.

Existing law provides that an involuntary deposit is made by the delivery to, picking up by, or holding of, a stray live animal by any person or entity. Under existing law, any person or private entity with whom a live animal is involuntarily deposited must immediately notify animal control officials for the purpose of retrieving the animal, as specified.

This bill would instead provide that when a person or private entity finds a stray live animal, the finder must immediately notify the owner if the owner's identity is reasonably ascertainable. The bill would require the finder to promptly bring the animal to an animal control agency or humane society for inspection if the finder cannot notify the owner. If the agency cannot identify the animal's owner and the finder wishes to become the animal's owner, the bill would permit the finder to retain possession of the animal for 14 days, after which legal title would vest in the finder unless the animal's owner has notified the agency or finder of his or her intent to reclaim the animal. The bill would require a finder to microchip, vaccinate, and spay or neuter the animal within 14 days of receiving legal title, with certain exceptions, and would make a finder's failure to comply with this provision an infraction punishable

by a fine of \$250. The bill also would permit the prior owner to file a petition to regain ownership of the animal within 6 months of legal title having vested in the finder, and would require the superior court to hold a hearing at which the prior owner could regain ownership if he or she demonstrates good cause, as defined, for failing to claim ownership during the initial 14-day holding period.

By increasing the duties of local animal control agencies and humane societies and by creating a new infraction, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1816.5 is added to the Civil Code, to
- 2 read:
- 3 1816.5. (a) The Legislature finds and declares the following:
- 4 (1) The housing of stray domestic animals by municipal animal
- 5 control agencies, humane societies, and societies for the prevention
- 6 of cruelty to animals imposes a significant financial burden on
- 7 those entities.
- 8 (2) When a private individual or entity is willing and able to
- 9 humanely care for a stray domestic animal, including, but not
- 10 limited to, providing shelter, proper nutrition, and veterinary care,
- 11 instead of surrendering the animal, a shelter, municipal animal
- 12 control agency, humane society, or society for the prevention of
- 13 cruelty to animals is able to reserve its space and other limited
- 14 resources for other stray animals.
- 15 (3) Provided that there are adequate safeguards in place that
- 16 promote the reunification of a stray animal with its owner, it can
- 17 be in the best interests of the stray animal to be held and housed
- 18 by a private individual or entity instead of being held and housed
- 19 in a shelter.
- 20 (b) For the purposes of this section, the following definitions
- 21 apply:

1 (1) “Agency” means any city, county, or city and county animal
2 control agency, humane society, or society for prevention of cruelty
3 to animals contracted to care for stray animals.

4 (2) “Finder” means any person or private entity with which a
5 live animal is deposited in the manner described in subdivisions
6 (c) and (d) of Section 1815.

7 (3) “Good cause” includes, but is not limited to, unavailability
8 due to hospitalization or incarceration, and travel and movement
9 of the animal to a jurisdiction different than that in which the prior
10 owner is located.

11 (c) A finder of a live stray animal shall immediately notify the
12 owner if the owner is reasonably ascertainable. If the finder is
13 unable to return the animal to its owner, the finder shall bring the
14 animal to an agency having jurisdiction over the location in which
15 the animal was found no later than one day after the animal was
16 found, or the first day that the agency is open for business,
17 whichever is sooner.

18 (d) When a finder presents a live stray animal to an agency
19 under subdivision (c), the agency shall inspect the animal for a
20 microchip pursuant to subdivision (c) of Section 31108 of the Food
21 and Agricultural Code, if the animal is a dog, or pursuant to
22 subdivision (c) of Section 31752 of the Food and Agricultural
23 Code, if the animal is a cat, and for any other identifying
24 information about the animal, including, but not limited to, an
25 identification tag, license tag, or tattoo.

26 (1) If the agency is able to identify the owner after its inspection,
27 the agency shall take possession of the animal and immediately
28 notify its owner.

29 (2) If the agency is unable to identify the owner after its
30 inspection, and the finder does not want to obtain ownership of
31 the animal, the agency shall take possession of the animal.

32 (3) After taking possession of an animal under paragraph (1) or
33 (2), an agency shall hold the animal as specified in Sections 31108,
34 31752, and 31753 of the Food and Agricultural Code.

35 (e) If an agency is unable to identify a live stray animal’s owner
36 after its inspection of the animal, and the finder wants to obtain
37 ownership of the animal, the finder may retain possession of the
38 animal during the owner redemption period instead of surrendering
39 it to the agency. Before releasing the animal to the finder, the
40 agency shall verify the finder’s identity with government-issued

1 photo identification and may also insert a microchip in the animal
2 containing the agency's contact information. The finder shall sign
3 a sworn declaration agreeing to comply with Section 1834 and any
4 applicable state or local laws before receiving the animal.

5 (f) (1) When a finder retains possession of a live stray animal
6 under subdivision (e), the finder shall provide the agency with all
7 relevant information that would be reasonably calculated to reunite
8 the animal with its owner, including, but not limited to, the finder's
9 name and address, the location in which the animal was found,
10 and the circumstances in which the finder obtained possession of
11 the animal. During the redemption period, the agency shall include
12 this information, with the exception of the finder's name and
13 address, along with a photograph and physical description of the
14 animal, in a print or electronic medium available for public viewing
15 during normal business hours.

16 (2) The finder may return the animal to the agency at any point
17 during the redemption period if he or she no longer wishes to obtain
18 ownership of the animal.

19 (g) If the owner of an animal held by a finder under subdivision
20 (e) notifies the agency or the finder of his or her intent to reclaim
21 the animal within 14 days of the animal's inspection by the agency,
22 the finder shall immediately surrender the animal to the agency.
23 If the owner does not notify the agency or finder within that time
24 period, legal title to the animal shall vest in the finder.

25 (h) Within 14 days of legal title vesting in the finder under
26 subdivision (g), the finder shall cause all of the following to be
27 done:

28 (1) Microchip the animal, if it is a dog or a cat, if not already
29 done pursuant to subdivision (e).

30 (2) Vaccinate the animal against rabies if it is a dog.

31 (3) Spay or neuter the animal as required by Section 30503 or
32 31751.3 of the Food and Agricultural Code.

33 (i) A finder's failure to comply with subdivision (h) shall
34 constitute an infraction punishable by a fine of two hundred fifty
35 dollars (\$250).

36 (j) If, within six months of legal title vesting in the finder under
37 subdivision (g), the prior owner notifies the agency that he or she
38 wishes to regain ownership of the animal, the prior owner shall
39 initiate a proceeding in the superior court of the county in which

1 the agency is located. The agency shall be required to provide the
2 name and address of the finder to the prior owner.

3 (1) A proceeding under this subdivision shall be initiated by
4 filing a petition to regain ownership within 10 days after the date
5 that the prior owner knew or should have known that legal title to
6 the animal had vested in the finder. The petition shall show good
7 cause as to why the prior owner failed to reclaim the animal within
8 the initial 14-day period and shall set forth a date for a hearing on
9 the matter in accordance with Section 1005 of the Code of Civil
10 Procedure.

11 (2) The prior owner shall serve a copy of the petition on the
12 finder and agency pursuant to Sections 1005, 1011, 1012, 1013,
13 and 1013a of the Code of Civil Procedure.

14 (3) The finder may file an opposition to the petition, and the
15 prior owner may file a reply to the opposition. These filings shall
16 be served on the adverse party pursuant to Sections 1005, 1011,
17 1012, 1013, and 1013a of the Code of Civil Procedure.

18 (4) All filings under this subdivision shall be formatted in
19 compliance with California Rules of Court 311 to 316, inclusive.

20 (5) The petitioner is entitled to a hearing on the petition, during
21 which the court shall allow oral argument. The finder assumes all
22 duties and liabilities of the prior owner with respect to the animal
23 pending the hearing, including, but not limited to, liability for
24 personal injury or property damage, and shall indemnify the agency
25 for any liability incurred in connection with the animal.

26 (6) The court shall only grant the petition upon a finding, based
27 on admissible evidence, that good cause prevented the prior owner
28 from reclaiming the animal during the initial 14-day period. Upon
29 granting the petition, the court may order the prior owner to
30 reimburse the finder for the reasonable costs of caring for the
31 animal, including, but not limited to, the cost of medical care, food,
32 and grooming.

33 (k) The agency and the finder shall not incur any civil or
34 criminal liability as a result of compliance with this section.

35 (l) The agency may charge a fee to cover the costs of compliance
36 with this section, including the costs of inspecting the animal,
37 maintaining records, placing a notice under subdivision (f) in a
38 print or electronic medium, and inserting a microchip in the animal
39 if one is inserted.

SEC. 2. Section 31108 of the Food and Agricultural Code is amended to read:

31108. (a) The required holding period for a stray dog impounded pursuant to this division shall be six business days, not including the day of impoundment, except as follows:

(1) If the public or private shelter has made the dog available for owner redemption on one weekday evening until at least 7 p.m. or one weekend day, the holding period shall be four business days, not including the day of impoundment.

(2) If the public or private shelter has fewer than three full-time employees or is not open during all regular weekday business hours, and if it has established a procedure to enable owners to reclaim their dogs by appointment at a mutually agreeable time when the public or private shelter would otherwise be closed, the holding period shall be four business days, not including the day of impoundment.

Except as provided in Section 17006, stray dogs shall be held for owner redemption during the first three days of the holding period, not including the day of impoundment, and shall be available for owner redemption or adoption for the remainder of the holding period.

(3) If the finder of the stray dog retains possession pursuant to subdivision (e) of Section 1816.5 of the Civil Code, the holding period for owner redemption shall be 14 days.

(b) Except as provided in Section 17006, any stray dog that is impounded pursuant to this division shall, prior to the euthanasia of that animal, be released to a nonprofit, as defined in Section 501(c)(3) of the Internal Revenue Code, animal rescue or adoption organization if requested by the organization prior to the scheduled euthanasia of that animal *or to the finder as provided in subdivision (e) of Section 1816.5 of the Civil Code*. The public or private shelter may enter into cooperative agreements with any animal rescue or adoption organization. In addition to any required spay or neuter deposit, the public or private shelter, at its discretion, may assess a fee, not to exceed the standard adoption fee, for animals adopted or released.

(c) During the holding period required by this section and prior to the adoption or euthanasia of a dog impounded pursuant to this division, a public or private shelter shall scan the dog for a microchip that identifies the owner of that dog and shall make

1 reasonable efforts to contact the owner and notify him or her that
2 his or her dog is impounded and is available for redemption.

3 (d) As used in this division, a “business day” includes any day
4 that a public or private shelter is open to the public for at least four
5 hours, excluding state holidays.

6 SEC. 3. Section 31752 of the Food and Agricultural Code is
7 amended to read:

8 31752. (a) The required holding period for a stray cat
9 impounded pursuant to this division shall be six business days,
10 not including the day of impoundment, except as follows:

11 (1) If the public or private shelter has made the cat available for
12 owner redemption on one weekday evening until at least 7 p.m.
13 or one weekend day, the holding period shall be four business
14 days, not including the day of impoundment.

15 (2) If the public or private shelter has fewer than three full-time
16 employees or is not open during all regular weekday business
17 hours, and if it has established a procedure to enable owners to
18 reclaim their cats by appointment at a mutually agreeable time
19 when the public or private shelter would otherwise be closed, the
20 holding period shall be four business days, not including the day
21 of impoundment.

22 Except as provided in Sections 17006 and 31752.5, stray cats
23 shall be held for owner redemption during the first three days of
24 the holding period, not including the day of impoundment, and
25 shall be available for owner redemption or adoption for the
26 remainder of the holding period.

27 (3) *If the finder of the stray cat retains possession pursuant to*
28 *subdivision (e) of Section 1816.5 of the Civil Code, the holding*
29 *period for owner redemption shall be 14 days.*

30 (b) Except as provided in Section 17006, any stray cat that is
31 impounded pursuant to this division shall, prior to the euthanasia
32 of that animal, be released to a nonprofit, as defined in Section
33 501(c)(3) of the Internal Revenue Code, animal rescue or adoption
34 organization if requested by the organization prior to the scheduled
35 euthanasia of that animal *or to the finder as provided in subdivision*
36 *(e) of Section 1816.5 of the Civil Code.* In addition to any required
37 spay or neuter deposit, the public or private shelter, at its discretion,
38 may assess a fee, not to exceed the standard adoption fee, for
39 animals adopted or released. The public or private shelter may

1 enter into cooperative agreements with any animal rescue or
2 adoption organization.

3 (c) During the holding period required by this section and prior
4 to the adoption or euthanasia of a cat impounded pursuant to this
5 division, a public or private shelter shall scan the cat for a
6 microchip that identifies the owner of that cat and shall make
7 reasonable efforts to contact the owner and notify him or her that
8 his or her cat is impounded and is available for redemption.

9 (d) As used in this division, a “business day” includes any day
10 that a public or private shelter is open to the public for at least four
11 hours, excluding state holidays.

12 SEC. 4. No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution because
14 a local agency or school district has the authority to levy service
15 charges, fees, or assessments sufficient to pay for the program or
16 level of service mandated by this act or because costs that may be
17 incurred by a local agency or school district will be incurred
18 because this act creates a new crime or infraction, eliminates a
19 crime or infraction, or changes the penalty for a crime or infraction,
20 within the meaning of Section 17556 of the Government Code, or
21 changes the definition of a crime within the meaning of Section 6
22 of Article XIII B of the California Constitution.